

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Joy Public Broadcasting Corporation
Radio Station WJTF-FM
Panama City, Florida

)
)
)
)
)
)

**File No. 99TP016
NAL/Acct. No. 915TP0004**

MEMORANDUM OPINION AND ORDER

Adopted: March 8, 2000

Released: March 9, 2000

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Order, we reaffirm a monetary forfeiture of \$3,000 issued by the former Compliance and Information Bureau to Joy Public Broadcasting Corporation (“Joy”) for violations of Sections 73.1350(c)(2), 73.1590(a)(1), and 73.1870(b)(3) of the Rules. Respectively, these sections require that broadcast stations make periodic calibrations of the station’s monitoring equipment, make equipment performance measurements upon the initial installation of a new transmitter, and designate the station’s chief operator in writing and post a copy of the designation with the station license. The Notice of Apparent Liability (“NAL”) in this case was issued February 4, 1999.¹ The Forfeiture Order was released July 7, 1999.² Joy filed a petition for reconsideration on August 6, 1999, pursuant to Section 1.106 of the Commission’s Rules (“the Rules”), 47 C.F.R. § 1.106. For the reasons discussed below, we deny the petition for reconsideration.

II. BACKGROUND

2. On November 17, 1998, in response to a complaint of interference to a television station arising from Joy’s operation of WJTF-FM, agents from the Commission’s Tampa, Florida, Field Office inspected the transmitting facilities of radio station WJTF.³ The inspection revealed several violations of the Rules, including the violations of Sections 73.1350(c)(2), 73.1590(a)(1), and 73.1870(b)(3) of the Rules noted above. On December 4, 1998, the Tampa Field Office issued a Notice of Violation (“NOV”) to Joy for these violations, as well as violations of Section 11.15 of the Rules⁴ (requiring that the EAS operating handbook be kept at normal duty positions or EAS equipment locations), and 73.317(d) of the Rules⁵ (requiring that any emissions appearing on a frequency removed from the carrier by more than 600

¹ NAL (FCC Tampa Field Office, released February 4, 1999).

² 14 FCC Rcd 856 (Compl. & Inf. Bur., 1999).

³ Joy has filed a license application (File No. BLED-981013KD) and has commenced program test operation pursuant to Section 73.1620 of the Rules, 47 C.F.R. § 73.1620.

⁴ 47 C.F.R. § 11.15.

⁵ 47 C.F.R. § 73.317(d).

kHz be attenuated at least $43 + 10 \text{ Log}_{10}$ (Power, in watts) dB below the level of the unmodulated carrier, or 80 dB, whichever is the lesser attenuation).

3. Joy's December 21, 1998 response to the NOV denied that Joy had violated Sections 73.317 and 73.1350(c)(2) of the Rules, but did acknowledge the violations of Sections 73.1590(a)(1), 73.1870(b)(3) and 11.15 of the Rules. Joy further stated that the acknowledged violations were in the process of being, or had been, corrected. Subsequently, the Tampa Field Office issued the February 4, 1999 NAL to Joy for violations of Sections 73.1350(c)(2), 73.1590(a)(1), and 73.1870(b)(3) of the Rules. The NAL did not include the violations of Sections 11.15 and 73.317(d) of Rules cited in the NOV because Joy had obtained a copy of the EAS operating handbook, and a second measurement of the station's signal by FCC agents on January 20, 1999 indicated that Joy had sufficiently corrected the problem.

3. In response to the NAL, Joy contended that (1) the "sole purpose of the Field Office's inspection of WJTF was to respond to complaints by area broadcasters"; (2) the violations cited by the NAL were "non-existent requirements ... not associated with any forfeiture amounts," and "minor violations which have no gravity to them under the circumstances"; (3) no forfeiture should be assessed for its failure to establish "procedures ... to ascertain the reliability of the monitoring equipment" because Joy was a new licensee who had been "operating for ... approximately two months, at the time of the inspection," and because there were no "operating problems"; and (4) its failure to post the name of the chief operator was "merely a technical violation" because the FCC agents were able to speak with the chief operator during the inspection. These arguments were thoroughly discussed and rejected in the July 7, 1999 *Forfeiture Order*. See 14 FCC Rcd 11326, 11327-11329.

III. DISCUSSION

4. Joy's petition for reconsideration was received by the Commission on August 6, 1999. The petition raises no new facts or arguments regarding the violations that form the basis for the NAL. The bulk of the petition is devoted to a detailed discussion of the violations found during the inspection for which no forfeiture was assessed. As the forfeiture at issue was not based on those other matters, they are of no relevance to a review of the *Forfeiture Order*. We therefore do not address those other matters here.

5. With respect to the violations actually enumerated in the NAL, which form the basis for the forfeiture assessed in this case and are the only matters properly before us at this time, the petition for reconsideration merely reiterates the arguments that were previously disposed of in the *Forfeiture Order*. Thus, Joy has offered no basis for revisiting issues previously addressed, or for reducing or rescinding the forfeiture amount.

IV. ORDERING CLAUSES

6. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 1.106 of the Rules, Joy Public Broadcasting Corporation's petition for reconsideration of the *Forfeiture Order* for NAL No. 915TP0004 **IS DENIED**.

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules⁶ within 30 days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section

⁶ 47 C.F.R. § 1.80.

504(a) of the Act.⁷ Payment may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. referenced above. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁸

8. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by Certified Mail Return Receipt Requested to Timothy E. Welch, Esquire, at Hill & Welch, 1330 New Hampshire Avenue N.W., Suite 113, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁷ 47 U.S.C. § 504(a).

⁸ See 47 C.F.R. § 1.1914.